

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:06-CV-224-F

PERGO, INC.,)	
Plaintiffs,)	
)	
v.)	<u>O R D E R</u>
)	
BERG PROFILES, LLC,)	
Defendant.)	

This matter is before the court on the status report filed by Plaintiff Pergo, Inc.

On March 15, 2007, the parties filed a Joint Motion to Stay Pending Arbitration [DE-26]. Therein, the parties specifically requested that the court retain jurisdiction “for the limited purpose of allowing the entry of an Arbitration Award, if any, as a judgment if the award is not satisfied within thirty (30) days of the date of the Arbitration Award or thirty (30) days from the receipt of any requested Findings of Fact and Conclusions of Law from the Arbitrators.” Joint Mot. [DE-26] at p. 1. The court allowed the motion to stay in an order filed on March 19, 2007 [DE-27].

On April 30, 2008, Plaintiff filed a Status Report [DE-30] informing the court that an Arbitrator’s Award was awarded on January 28, 2008, and that on March 19, 2008, the Arbitrator denied a motion to reopen or to amend the Award. After eleven months had passed, and neither party had moved the court for an entry of judgment, the court directed the Plaintiff, in an order filed on March 3, 2009 [DE-31], to show cause why this action should be not be dismissed.

Plaintiff filed a Response [DE-32], representing that Defendant, Berg Profiles, LLC, filed a petition of a bankruptcy under Chapter 7 in the Bankruptcy Court for the Eastern

District of Tennessee on May 20, 2008. Accordingly, in an order filed on March 16, 2009 [DE-33], the court stayed this action pending the disposition of the bankruptcy proceeding, and directed Plaintiff to file quarterly reports.

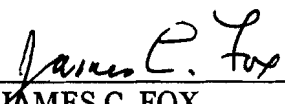
On April 12, 2010, counsel for Defendant filed a motion for leave to withdraw, indicating that upon information and belief, Defendant had been dissolved. Mot. to Withdraw [DE-37. United States Magistrate Judge William A. Webb allowed the motion in an order filed on April 12, 2010 [DE-38].

Thereafter, Plaintiff filed a Status Report [DE-39] on June 14, 2010, indicating that the Bankruptcy trustee filed a Report of No Distribution in the bankruptcy action, and the Bankruptcy Court discharged the trustee in Bankruptcy and closed the Bankruptcy proceeding.

Accordingly, the court ORDERS that the stay in this action is lifted. Plaintiff is DIRECTED to file a response, within fourteen (14) days of this Order, showing cause why this action should not be dismissed.

SO ORDERED.

This 17th day of June, 2010.



JAMES C. FOX
Senior United States District Judge